

May 31, 2016

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re

GENERAL ORDER NO. 16-114-1

Plan of the U.S. District Court for the
Eastern District of Washington for the
Representation of Indigent *Pro Se*
Litigants in Civil Cases

THIS ORDER was approved by the Article III judges of the United States District Court for the Eastern District of Washington.

I. Establishment of Pro Bono Panel of Attorneys

Attorneys and law firms willing to serve as pro bono counsel for indigent civil plaintiffs may file an application with the Federal Bar Association–Eastern District of Washington (“Bar Association”). The Bar Association will review the individual and law firm applications and compile and maintain a list of attorneys and law firms participating on the Pro Bono Panel of Attorneys (“Panel”). Panel members may designate the types of cases they are willing to perform (*e.g.*, civil

1 rights, fair housing, employment discrimination, veterans benefits, social security
2 benefits, Americans with Disabilities Act, etc.).

3 **II. Appointment of Counsel in Selected Cases**

4 Upon request of an indigent *pro se* litigant, accompanied by a declaration of
5 indigency, the Court will determine whether appointed counsel is warranted. If the
6 Court finds appointed counsel is warranted, the Court will request the Bar
7 Association select counsel from the Panel and communicate at least two names to
8 the Court. The Court will provisionally select counsel of its choice who shall then
9 be notified and will conduct a conflicts determination and an initial review of the
10 plaintiff's complaint in order to determine whether counsel may accept the
11 appointment. If counsel has no conflict and is otherwise qualified to handle the
12 matter, the Court may then make the appointment. If counsel cannot accept the
13 appointment for any reason, the Bar Association shall repeat this procedure until
14 qualified counsel is located.

15 **III. Reimbursement of Costs and Expenses**

16 Appointed counsel must seek from the client (the former *pro se* litigant)
17 reimbursement for the costs in litigating the action according to Washington Rule
18 of Professional Conduct 1.8(e)(1). Counsel may advance costs as long as the client
19 is responsible for reimbursement. Counsel may also apply *ex parte*, in advance for
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1 reimbursement of reasonable and necessary costs from the Court's Non-
2 Appropriated Library Fund ("Fund"), subject to available funds.

3 **A. Costs and Expenses Eligible for Fund Reimbursement**

4 Counsel seeking costs shall first submit an ex parte projected budget for the
5 entire case which, presumptively, shall not exceed \$2,500. Prior to incurring any
6 costs for which reimbursement will be sought and subject to the Fund Committee's
7 prior approval or the presiding judge's prior approval, the following categories of
8 costs and expenses are eligible for reimbursement from the Fund:

- 9 1) Commercial (not in-house) copying costs, including copying of
10 electronically-stored information;
- 11 2) Deposition fees and costs of transcripts (an original and one copy) that
12 will be introduced as evidence in motion practice or at trial;
- 13 3) Expert witness fees vital to the case (where a pro bono expert cannot
14 otherwise be retained);
- 15 4) Costs of attorney travel not to exceed the US General Services
16 Administration rates, *see* <http://www.gsa.gov>, for mileage, lodging, and
17 per diem;
- 18 5) Interpreter services; and
- 19 6) Witness fees, including service of subpoenas, statutory witness fees,
20 mileage, and lodging.

1 After a budget is approved and expenses are actually incurred, counsel may
2 ex parte request reimbursement—either at the conclusion of the case or on an
3 interim basis, if necessary—only in accordance with the previously approved
4 budget.

5 **B. Costs and Expenses Not Eligible for Fund Reimbursement**

6 The following costs and expenses are not eligible for reimbursement from
7 the Fund:

- 8 1) Costs and expenses that have not received prior approval from the Fund
9 Committee or the presiding judge;
- 10 2) Attorney’s fees, paralegal fees, general overhead and related expenses,
11 including rent, telephone, office photocopying, secretarial assistance, and
12 any other personnel costs;
- 13 3) Computer-assisted legal research;
- 14 4) Postage and costs for service of papers not otherwise allowed above;
- 15 5) Travel, lodging, and per diem of the client;
- 16 6) Any personal expense of the client, including fines, taxes, clothing, food,
17 housing, etc.; and
- 18 7) Attorney’s fees, costs, and expenses imposed against the client (the
19 former *pro se* litigant) or pro bono counsel pursuant to any rule, statute,
20 contract or court order.

1 **IV. Recovery of Reimbursed Expenses**

2 The Court expects a prevailing client to seek attorney fees (which will be
3 used to compensate pro bono counsel), costs, and expenses allowed by law from
4 the opposing party. In any event, pursuant to the Rules of Professional
5 Responsibility, the client is ultimately responsible for costs. In the event of
6 settlement or other resolution resulting in a monetary award or transfer to the
7 indigent litigant, reimbursement of costs and expenses shall occur as follows: First,
8 the Fund shall be reimbursed for the costs and expenses advanced in the litigation.
9 Second, appointed pro bono counsel shall be reimbursed for any costs and
10 expenses advanced.

11 Reimbursement to the Fund is not contingent upon the Court’s award of
12 taxable costs, untaxable costs or expenses in the case; rather, such reimbursement
13 is required for any monetary award or transfer in favor of the indigent litigant.
14 Counsel shall ensure that such reimbursement occurs prior to any disbursement of
15 judgment or settlement funds to the client or any other person.

16 **V. In-Court Hearing**

17 If requested by any pro bono counsel appointed under this Plan, the Court
18 will guarantee an in-court hearing on any dispositive motion.

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1 **VI. Duration of Representation**

2 Appointed pro bono counsel shall represent the client through final judgment
3 unless the Court allows counsel to withdraw according to the Local Civil Rules.
4 Counsel is encouraged, but is not required, to continue to represent the client on
5 appeal or administrative remand.

6 **VII. Rules and Policies**

7 The United States District Court for the Eastern District of Washington may
8 adopt rules and policies in accordance with this Plan and reserves the right to
9 amend this Plan and accompanying rules and policies as the Court deems
10 appropriate.

11 This General Order shall become effective June 1, 2016.

12 **IT IS SO ORDERED.**

13 **DATED** May 31, 2016.



15 *Thomas O. Rice*
16 **THOMAS O. RICE**
 Chief United States District Judge